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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Determination of Experimental Population Status for Certain Introduced Populations of Colorado Squawfish and Woundfin

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service proposes to introduce Colorado squawfish (*Ptychocheilus lucius*) and woundfin (*Plagoterus argentissimus*) into the Gila River drainage in Arizona and to determine these populations to be "nonessential experimental" populations according to Section 10(j) of the Endangered Species Act of 1973. Section 10(j) of that Act authorizes "experimental" populations of endangered species to be treated as if they were threatened. The Service has much more discretion in divising a managment program for threatened species than for endangered species, especially on matters regarding regulated takings. Accordingly, a special rule to allow take in accordance with State law is proposed for these nonessential experimental populations. In the past, these fishes were more widespread in the State of Arizona where they occurred in several river drainages. This action is being taken in an effort to reestablish populations of Colorado squawfish and woundfin within their historic range.

DATES: Comments from the State of Arizona and the public must be received by May 10, 1984.

ADDRESSES: Interested persons or organizations are requested to submit comments to the Regional Director, U.S. Fish and Wildlife Service, 500 Gold Avenue, S.W., P.O. Box 1306, Albuquerque, New Mexico 87103. Comments and materials relating to this proposed rule are available for public inspection by appointment during normal business hours at the Service's Regional Office in Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: For further information on the proposal, contract Mr. Conrad Fjetland, Assistant Regional Director, U.S. Fish and Wildlife Service, Albuguerque, New Mexico 87103 (505/766-2321 or FTS 474-2321) or Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act Amendments of 1982, Pub. L. No. 97-304, became law on October 13, 1982. Among the significant changes made by the 1982 Amendments was the creation of a new Section 10(j) which established procedures for the designation of

specific populations of listed species as "experimental populations." Regulations implementing the experimental population designation were proposed on January 9, 1984 (49 FR 1166–1169). This proposal will not be finalized until the general regulations have been implemented. Under authorities in the Endangered Species Act (ESA) previous to the 1982 Amendments, the Service was permitted to translocate populations into unoccupied portions of a listed species' historic range when it would foster the conservation and recovery of the species. Local opposition to translocation effort, however, severely handicapped the effectiveness of translocation as a management tool. This opposition stemmed from concerns regarding the restrictions and prohibitions on private and Federal activities affecting endangered species under Sections 7 and 9 of the Act. Under Section 10(j) of the 1982 Amendments, past and future translocated populations established outside the current range, but within the species' historic range, may now be designated at the discretion of the Service as "experimental." Such a designation will increase the Service's flexibility to manage these translocated populations because the Amendments provide that such experimental populations of species which are otherwise listed as endangered may be treated as threatened. The Services has much more discretion in devising management programs for threatened species than for endangered species, especally on matters regarding regulated takings. Moreover, experimental populations found to be "nonessential" to the continued existence of the species in question would not be afforded protection under Section 7(a)(2) of the Act, which requires Federal agencies to refrain from activities which are likely to jeopardize the continued existence of a listed species or adversely modify its critical habitat. The individual organisms comprising the designated experimental population will be removed from an existing source or donor population only after it has been determined that their removal itself will not violate Section 7(a)(2) of the ESA and complies with the permit requirements in Section 10 (a)(1)(A) and (d). The two species of fishes included in this proposal are Colorado squawfish (*Ptychochoilus lucius*) and woundfin (*Plagopterus argentissimus*), both of which are currently listed as endangered.

Colorado squawfish were once widespread, occupying the entire Colorado River system including the Gila River system in Arizona. Squawfish were also present in tributaries of the Gila River, including the Salt, Verde, and San Pedro Rivers and likely several others. The last specimen known from Arizona waters was collected in the early 1950's and extensive sampling subsequent to that date has failed to locate specimens anywhere within the State of Arizona. The reason for the decline of the Colorado squawfish is dewatering, dams, and competition with exotic species of fish. However, good habitat remains in the stream areas proposed for the reintroduction of the Colorado squawfish and there is a good likelihood that it will become established in these areas. Establishment of experimental populations of Colorado squawfish will make a significant contribution to the recovery of the species. The Colorado Squawfish Recovery Plan calls for reintroduction of the species into selected streams in the lower basin where the species formerly occurred. The stock of Colorado squawfish to be reintroduced will come from an existing captive-bred population and will not result in the removal of any individuals from the wild population.

Woundfin were distributed in the mainstream Colorado, Gila, Salt, and Virgin Rivers. Dams and dewatering have made most of these habitats unsuitable, while exotic species, especially red shiners (*Notropis lutrensis*), have outcompeted woundfin in the few remaining flowing streams. Only the Virgin River continues to maintain a woundfin population. The Service proposes to remove 5,000 individuals from the extant population to stock the experimental populations. The removal of these individuals is not likely to jeopardize the continued existence of the woundfin. The Woundfin Recovery Plan calls for reintroduction of woundfin into central Arizona streams where this species formerly occurred. The stream areas proposed for reintroduction of the woundfin contain good habitat for this species, and the likelihood that these experimental populations will become established is good. If these experimental populations are successful they will make a significant contribution to the recovery of the woundfin. The release of these experimental populations as proposed will further the conservation of the species.

Status of Reintroduced Populations

The reintroduced populations of Colorado squawfish and woundfin are proposed as "nonessential" experimental populations according to the provisions of the 1982 Amendments to the Endangered Species Act. Nonessential experimental population status for the introduced Colorado squawfish and woundfin means that they would be subject only to provisions of Sections 7(a) (1) and (4) of the Endangered Species Act which authorize Federal agencies to establish programs furthering their conservation and which require Federal agencies to informally confer with the Secretary regarding actions which are likely to jeopardize the continued existence of the species. The restrictions on Federal agency activity in Section 7(a)(2) would not apply. Justification for the "nonessential" status for the proposed introduced experimental populations of Colorado squawfish and woundfin is as follows:

1. *Colorado squawfish.* Populations of this species are still viable in portions of the Green, Colorado, and Yampa Rivers in the upper basin. In addition, sufficient brood stock is available at Dexter NFH to produce many fry. Techniques for propagating and rearing this species have been developed and are in place. Reintroduction is a recovery action designed to increase the number of populations, rather than to prevent their further decline. The loss of these captive-reared specimens would not reduce the likelihood of the survival of Colorado squawfish in the wild.

2. *Woundfin.* The population in the Virgin River is relatively stable and the habitat is moderately secure. Fish numbers vary with amounts of spring flows and irrigation practices that dewater portions of the stream, but the recovery team sees no near-future significant alternation for the Virgin River habitat. Woundfin are being held at Dexter National Fish Hatchery (NFH), but spawning attempts have been only marginally successful. The removal of woundfin from the extent population is not expected to negatively affect the stability of that population. Therefore, the loss of the reintroduced populations would not reduce the likelihood of the survival of the woundfin in the wild.

This reintroduction is an action to increase the numbers of populations of woundfin rather than an attempt to prevent their further decline.

Location of Reintroduced Populations

All of the sites proposed for reintroduction of Colorado squawfish and woundfin are totally isolated from existing populations of these species. The nearest population of Colorado squawfish is above Lake Powell in the Green and Colorado Rivers, an upstream distance of at least 800 miles, 6 mainstream dams and 200 miles of dry riverbed from the proposed release site.

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Fishes:							
Squawfish, Colorado	*Ptychocheilus lucius*			XN			17.84(a)
Woundfin	*Plagopterus argentissimus*			XN			17.84(a)

3. It is proposed that Title 50 CFR Part 17 be amended by adding a new § 17.84 as follows:

§ 17.84 Special rules—vertebrates.

(a) Colorado squawfish (*Ptychocheilus lucius*) and woundfin (*Plagopterus argentissimus*).

(1) The Colorado squawfish and woundfin populations identified in paragraph (4) below are experimental, nonessential populations.

(2) No person shall take this species, except in accordance with applicable State fish and wildlife conservation laws and regulations in the following instances:

(i) For education purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act; or

(ii) Incidental to State-permitted recreational fishing activities, provided that the individual fish taken is immediately returned to its habitat.

(3) Any violation of applicable State fish and wildlife conservation laws or regulations with respect to the taking of this species will also be a violation of the Endangered Species Act.

(4) No person shall possess, sell, deliver, carry, transport, ship, import, or export, by any means whatsoever, any such species taken in violation of these regulations or in violation of applicable State fish and wildlife laws or regulations.

(5) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in paragraph (2).

(6) All of the sites for reintroduction of Colorado squawfish and woundfin are totally isolated from existing populations of these species. The nearest population of Colorado squawfish is above Lake Powell in the Green and Colorado rivers, an upstream distance of at least 800 miles including 6 mainstream dams, and 200 miles of dry riverbed. Woundfin are similarly isolated (450 miles distant, 200 miles of dry streambed and 5 mainstream dams). All reintroduction sites are within the historic range of these species and are as follows:

(i) *Colorado Squawfish—Arizona: Gila County.* Salt River from Roosevelt Dam upstream to U.S. Highway 60 bridge.

(ii) *Arizona: Gila and Yavapai Counties.* Verde River from Horseshoe Dam upstream to Perkinsville. The lower segments of large streams which flow into these two sections of river may, from time to time, be inhabitated by Colorado squawfish. Downstream movement of squawfish in these areas will be by dams and upstream movement is limited by habitat.

(i) *Woundfin—Arizona: Gila and Yavapai Counties.* Verde River from backwaters of Horseshoe Reservoir upstream to Perkinsville.

(ii) *Arizona: Graham and Greenlee Counties.* Gila River from backwaters of San Carlos Reservoir upstream to Arizona/New Mexico State line.

(iii) *Arizona: Greenlee County.* San Francisco River from its junction with the Gila River upstream to the Arizona/New Mexico State line.

(iv) *Arizona: Gila County.* Tonto Creek, from Punkin Center upstream to Gisela.

(v) *Arizona: Yavapai County.* Hassayampa River, from Red Cliff upstream to Wagoner.

The movement of woundfin beyond these areas will be limited to the lower portion of larger tributaries where suitable habitat exists. Downstream movement is limited by dams, reservoirs, and dry streambed. Upstream movement from these areas is restricted due to the absence of habitat. Upstream areas are too cold and the gradient is too steep to support populations of woundfin.

(5) The reintroduced populations will be checked annually to determine their condition. A seining survey will be used to determine population expansion or contraction, reproduction success, and general health condition of the fish.

(b) [Reserved]

Dated: January 16, 1984.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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